

February 13, 2003

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TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

MDR Tracking #: M2-03-0605-01-SS  
IRO #: 5251

\_\_\_\_ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to \_\_\_\_ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

\_\_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor with a specialty and board certification in Orthopaedic Surgery. The \_\_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to \_\_\_\_ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

\_\_\_\_ is a gentleman who has had multiple back surgeries in the past, all of which have failed to relieve his pain. The patient originally had a back injury that required 360 degree anterior and posterior fusion with discectomy at the L5/S1 level done July 19, 1999 by \_\_\_\_\_. Following this procedure, the patient did not receive any significant degree of relief. A dorsal column stimulator that was implanted after the surgery on his back did not give him any relief. Unfortunately, this became infected around the generator part of the stimulator and the old stimulator had to be removed. The patient did not develop a solid fusion. He was felt to have a pseudoarthrosis at the L/S1 level. Because of the pseudoarthrosis and his intractable pain, he underwent a second back operation on April 1, 2001. This was an L4/5 fusion with L5/S1 fusion also. The patient did not do well after this procedure and again required implantation of a dorsal column stimulator. The dorsal column stimulator did not function properly and subsequently it had to be re-implanted into the thoracic area through a thoracic laminotomy that was done on February 6, 2002. The patient was doing better for a period of time but on May 28, 2002, he reported an

abrupt change in his pain. It was much more severe and he felt that he was having much more pain in his back with no particular apparent reason. His surgeon evaluated him and felt that he was having a problem with the hardware that was remaining in his back. He referred the patient to \_\_\_\_ who did a hardware block and this reportedly relieved a great portion of his pain for about 24 hours but then it came back. On the basis of that, the surgeon is recommending removal of the hardware to at least relieve a portion of his back pain. He is also having a problem with pain in the generator part of the dorsal column stimulator. He is recommending moving the generator part of the dorsal column stimulator to a different location so that it will not be giving him additional pain. These two surgical procedures have been requested repeatedly and denied by the carrier.

#### REQUESTED SERVICE

The surgeon is recommending removal of lumbar hardware and repositioning of the dorsal column stimulator.

#### DECISION

The reviewer disagrees with the prior adverse determination.

#### BASIS FOR THE DECISION

The reviewer finds that these two procedures are indicated and would agree with the rationale for removal of the retained hardware now that it is solid. At the same time, the patient will benefit from moving the generator part of the dorsal column stimulator because it is in an area that is causing him pressure problems. This is a relatively minor procedure that is going to be necessary anyway. It could easily be done at the time that the hardware is removed from the patient's back.

Upon review of x-rays, the patient has been judged to have a solid fusion. The surgeon is the best judge as to whether or not a fusion is solid. Since his fusion is solid, the hardware has now served its purpose. It is known that the hardware serves as a foreign body and can sometimes create as significant amount of pain when it is retained. It is certainly known that removal of this hardware will not relieve all of this patient's back pain, but since his fusion is solid, there is good reason to at least try to relieve a portion of his pain through hardware removal. In order to confirm the indication for this surgery, the patient did have a hardware block that gave him significant relief of pain for 24-hours. The reviewer therefore finds that these two procedures are indicated for this patient.

\_\_\_\_ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. \_\_\_\_ has made no determinations regarding benefits available under the injured employee's policy.

As an officer of \_\_\_\_, I certify that there is no known conflict between the reviewer, \_\_\_\_ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

\_\_\_ is forwarding by mail and, in the case of time sensitive matters by facsimile, a copy of this finding to the treating doctor, payor and/or URA, patient and the TWCC.

Sincerely,

### **YOUR RIGHT TO REQUEST A HEARING**

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

In the case of prospective *spinal surgery* decision, a request for a hearing must be made in writing and it must be received by the TWCC Chief Clerk of Proceedings within 10 days of your receipt of this decision. (20 Tex. Admin. Code 142.5(c)).

In the case of other *prospective (preauthorization) medical necessity* disputes a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing should be sent to: Chief Clerk of Proceedings, Texas Worker's Compensation Commission, P.O. Box 40669, Austin, TX 78704-0012. A copy of this decision should be attached to the request.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute, per TWCC rule 133.308(t)(2).

**I hereby certify, in accordance with TWCC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant's representative) and the TWCC via facsimile, U.S. Postal Service or both on this 13th day of February, 2003.**